

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DOUGLAS A. DUHART

Plaintiff,
-against-

CSX TRANSPORTATION, INC.,
Defendant.

NOTICE OF MOTION

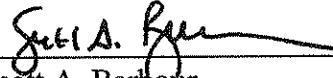
Civil Action No.: 07-CV-00169
GLS/DRH

PLEASE TAKE NOTICE, that upon the annexed Affidavit of Scott A. Barbour, Esq., sworn to on July 31, 2008, the Memorandum of Law of defendant CSX Transportation, Inc. dated July 31, 2008, the defendant's Statement of Undisputed Facts dated July 31, 2008, and all the previous papers and proceedings had herein, the undersigned will bring the within motion on for a hearing before U.S. District Judge Gary L. Sharpe, in the United States District Court for the Northern District of New York at the James T. Foley U.S. Courthouse in Albany, New York, at 9:00 a.m. on September 4, 2008 for: (1) an Order pursuant to Rule 702 of the Federal Rules of Evidence excluding the testimony, opinions/conclusions, and report of plaintiff's expert, John McCarthy, from use at trial and, (2) an Order pursuant to Rule 56 of the Federal Rules of Civil Procedure granting summary judgment to defendant dismissing the plaintiff's Complaint, and for such other and further relief as the Court may deem just and proper.

DATED: July 31, 2008

McNAMEE, LOCHNER, TITUS
& WILLIAMS, P.C.

By:



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